

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 09/869,094 Confirmation No. : 1011
First Named Inventor : Gervasio MERCURI
Filed : September 18, 2001
TC/A.U. : 1772
Examiner : C. Simone

Docket No. : 010414.50147US
Customer No. : 23911

Title : Meat Product Casing Having a Maximum Extensible Diameter

REPLY BRIEF

Mail Stop Appeal Brief- Patents

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The following additional submissions are made in response to the Examiner's Answer dated June 13, 2005.

Aside from incorporating previously filed arguments in the Appeal Brief of March 23, 2005, Applicants' submit that the "Response to Argument" section 10 of the Reply Brief, with regard to the rejection of independent claim 45 as anticipated under 35 U.S.C. §102 over either Levin (U.S. Patent No.: 3,866,444) and Krauss (U.S. Patent No.: 3,248,905) contain erroneous conclusions concerning the nature of the references used in the rejection of independent claim 45. The discussions of the rejections of independent claim 45 over the references to Krauss and Levin contain identical language and each contains an indication from the Examiner that it is well known in the art that an elastic thread inherently has an elastic limit, so that elastic thread in Levin/Krauss has an elastic limit and it is inherent that the number of turns of yarn provided around the elastic thread for a given length of the circumferential thread is determined as a function of an elastic limit of the elastic thread.

Applicants' strenuously urge that although an elastic thread inherently has an elastic limit neither of the references disclose that they "know" what that limit is, and therefore the number of turns that is used in each of the references is certainly not "a function of an elastic limit of said thread" as specifically recited in claim 45.

In addition, this function is such that these threads become taut after a predetermined amount of stretch due to the yarn being straightened to an extent where the yarn resists tensile

force where the circumferential threads become inextensible before the elastic limit of the elastic thread is reached. The statement of the Examiner concerning the showing of the references either to Krauss or Levin has no indication concerning the yarn being placed under tension to resist further stretching of the yarn and the elastic thread combination.

Levin has a disclosure at column 3, lines 27-31 which refers to the diameter of the elastic thread decreasing and the yarn strands around the elastic thread becoming spaced during stretching. There is no appearance of any inherent disclosure with Levin that would suggest the number of turns of yarn on the elastic thread would therefore be anything more than providing adequate coverage of the elastic thread while it is being stretched.

In summation, neither Levin or Krauss make any effort to determine the elastic limit and make the necessary adjustments to the number of turns of the yarn around the thread for a given length of the threads. Moreover, claim 45 specifically requires that the function of the elastic limit is such that these threads become taut under tension after a predetermined amount of stretch and being straightened to an extent where the yarn resists tense or force whereupon these threads become inextensible before the elastic limit of the thread is reached.

CONCLUSION

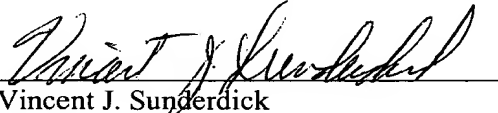
In conclusion, Applicants' respectfully request the allowance of this application and the reversal of the Examiners' decision in the Final Rejection.

An Oral Hearing is Requested.

The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, to Deposit Account no. 05-1323, Docket No.: 010414.50147US.

Respectfully submitted,

August 15, 2005



Vincent J. Sunderdick
Registration No. 29,004

CROWELL & MORING LLP
Intellectual Property Group
P.O. Box 14300
Washington, DC 20044-4300
Telephone No.: (202) 624-2500
Facsimile No.: (202) 628-8844
VJS:ddd